

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

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BROWN, CYNTHIA

Case No. 10-19354-FJB

Debtor

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**MOTION OF DEBTOR TO DETERMINE THAT CHAPTER 13 STATEMENT OF CURRENT  
MONTHLY AND DISPOSABLE INCOME (FORM B22C) DOES NOT DETERMINE PLAN PAYMENT**

Now comes the Debtor, Cynthia Ann Brown, and does hereby move this Honorable Court for an Order that her filed Chapter 13 Statement of Current Monthly and Disposable Income (Form B22C) does not Determine Plan Payment. In Support of this motion, Debtor states as follows:

1. Debtor filed for Chapter 13 Relief on August 30, 2010.
2. Debtor appeared with counsel at her duly scheduled 341 meeting on October 15, 2010.
3. At the 341 meeting, Debtor was examined under oath regarding her petition and schedules appurtenant thereto.
4. The Debtor's schedule I indicates that she has actual average monthly household income of \$13,264.39, (with the vast amount of this income coming from her non-filing spouse).
5. The Debtor's schedule J indicates average actual monthly household expenses of \$12,703.76.
6. The actual Statement of Monthly Net Income (from paragraph 20 of Schedule J) is \$560.63 a month.
7. The above income and expense figures were used to complete the Chapter 13 Statement of Current monthly and Disposable Income (form B22C) and resulted in a proposed Plan payment of \$2093.02.

8. The Debtor's proposed Plan proposes to pay the actual net disposable \$560.63 in a monthly Plan payment for a period of 60 months.
9. On or about November 2, 2010, the Chapter 13 Trustee filed an objection to the Debtor's Plan because it did not propose to pay the amount determined by the B22C. Debtor has filed a response.
10. The Chapter 13 Trustee does not object to the actual income and expense figures on schedule I and J.
11. Future projected amounts the Debtor reasonably expends monthly for Recreation; Car Insurance; Holiday Gifts; Car Repairs; Home Maintenance; Misc. Household Expenses; and Cable bill total over \$1,557 per month and are not either listed in the plain language of B22C or limited to some degree.
12. Debtor's actual future expenses are known and virtually certain to occur. Whereas, the B22C allows only certain expense deductions under a mechanical approach which is not related to the specific Debtor's actual projected future expenses.
13. It is evident that the Debtor has more in real monthly household expense than is apparently listed under the standard mechanical approach of the B22C form, and that Debtor has proposed to pay all that she can actual afford to pay.
14. The United States Supreme Court under Hamilton, Chapter 13 Trustee v. Lanning, No. 08-998, (decided June 7, 2010) has recently rejected the mechanical approach to viewing the Debtor's projected future disposable income.

WHEREFORE, the Debtor respectfully requests this Court for an Order allowing her Motion to determine that the Chapter 13 Statement of Current Monthly and Disposable Income (Form B22C) Does Not Determine Plan Payment.

Respectfully Submitted,

By: /s/ Terrence L. Parker, Esq.

B.B.O.#555277

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Suite 404

Cambridge, MA 02138

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CERTIFICATE OF SERVICE

The above signed hereby certifies that a copy of the within Motion to Determine was served upon the Debtor at her address of record and upon the Chapter 13 Trustee, John Fitzgerald, US Trustee, electronically via the CM/ECF system and to the attached service list.

**Case Number: 10-19354**

**BROWN SERVICE LIST**

**1 of 6**

Recovery Management Systems Corporation  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131

AT&T Universal Card  
PO Box 6239  
Sioux Falls, SD 57117

Apex Financial Management  
1120 W Lake Cook Road  
Buffalo Grove, IL 60089

BAC Home Loan Servicing  
450 American Street  
Simi Valley, CA 93065

BAC Home Loans Servicing, LP  
PO Box 15222  
Wilmington, DE 19886-5222

Chase Bank  
PO Box 15298  
Wilmington, DE 19850

Chase Bank  
PO Box 78509  
Phoenix, AZ 85062

Chase/BankOne  
P.O. Box 15145  
Wilimington, DE 19580

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Citi Auto  
2208 Hwy 121  
Bedford, TX 76021

CitiFinancial Auto  
Bankruptcy Department  
P.O. Box 1472  
Minneapolis, MN 55440-1472

CitiFinancial Auto  
PO Box 9585  
Coppell, TX 75019

Citibank  
PO Box 6241  
Sioux Falls, SD 57117

City Of Brockton  
Office Of The Collector Of Taxes  
45 School Street  
Brockton, MA 02301

Debora Debonis  
Massachusetts Department Of Revenue  
200 Arlington Street, Rm 4300  
Chelsea, MA 02150

Department Stores National Bank/Macys  
Bankruptcy Processing  
PO Box 8053  
Mason, OH 45040

Discover Bank  
Dfs Services LLC  
PO Box 3025

New Albany, OH 43054-3025  
Discover Financial Service  
PO Box 15316  
Wilmington, DE 19850

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Discover Financial Services, LLC  
Attn: Bankruptcy Department  
PO Box 3025  
New Albany, OH 43054

HSBC  
Attn: Bankruptcy Department  
P.O. Box 5213  
Carol Stream, IL 60197

HSBC  
PO Box 961245  
Fort Worth, TX 76161

Hilco Receivables  
Attn: Bankruptcy  
1120 Lake Cook Road, Suite B  
Buffalo Grove, IL 60089

Internal Revenue Service  
120 Liberty Street  
Brockton, MA 02301

Internal Revenue Service  
P.O. Box 21126  
Philadelphia, PA 19114

Macy's  
9111 Duke Blvd  
Mason, OH 45040

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Macy's / FDSB  
Attn: Macy's Bankruptcy  
PO Box 8053  
Mason, OH 45040

Macy's / FDSB  
Macy's Bankruptcy  
PO Box 8053  
Mason, OH 45040

Massachusetts Department Of Revenue  
Bankruptcy Unit  
P.O. Box 9564  
Boston, MA 02114-9564

National Capital Management, LLC.  
8245 Tournament Drive  
Suite 230  
Memphis, TN 38125

USA  
Recovery Management Systems Corporation  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

Sears / CBSD  
701 East 60th Street N  
Sioux Falls, SD 57117

Sears / CBSD  
PO Box 6189  
Sioux Falls, SD 57117

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Sears / CBSD  
Sears Bankruptcy Recovery  
PO Box 20363  
Kansas City, MO 64195

Silverleaf Resorts, Inc.  
1221 Riverbend Drive  
Suite 120  
Dallas, TX 75247

Textron Financial Corporation  
40 Westminster Street  
Providence, RI 02903

Universal / Citibank  
Attn: Centralized Bankruptcy  
PO Box 20507  
Kansas City, MO 64195

Universal / Citibank  
PO Box 6241  
Sioux Falls, SD 57117

WF Fin Bank  
Wells Fargo Financial  
4137 121st Street  
Urbendale, IA 50323

Wells Fargo Bank, N.A.  
4137 121st Street  
Urbandale, IA 50323

Wells Fargo Cards  
3201 N. 4th Avenue  
Sioux Falls, SD 57104



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eCAST Settlement Corporation, assignee  
of Chase Bank USA, N.A.  
POB 29262

New York, NY 10087-9262  
eCAST Settlement Corporation, assignee  
of Citibank (South Dakota), N.A.  
POB 29262  
New York, NY 10087-9262

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Brockton, MA 02301